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March 2, 2020

Via ECF and Email

The Honorable Andrew L. Carter, Jr.
U.S. District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 435
New York, NY 10007

Re: *Schansman, et al. v. Sberbank of Russia PJSC, et al.*, No. 19-CV-2985
(ALC)(GWG)
Response to Plaintiffs' Request for Issuance of Subpoenas or
Document Preservation Order

Dear Judge Carter:

We write on behalf of all Defendants in the above-referenced action, in response to Plaintiffs' February 26, 2020 letter (ECF No. 130) seeking an order either "permitting Plaintiffs to serve subpoenas on the non-parties identified" in the letter or "direct[ing] the non-parties [to take steps that prevent them]...from destroying potentially relevant evidence."

As an initial matter, Plaintiffs' request is procedurally improper. The letter does not request a pre-motion conference and is not directed to Magistrate Judge Gorenstein. *See* Local Rule 37.2; Individual Practice Rule 2.A. Therefore, it is properly denied.

Moreover, it is well settled that discovery (in this case, the service of subpoenas on non-parties) should not commence where, as here, defendants have filed motions to dismiss that would dispose of Plaintiffs' claims. Judges in this District, including Magistrate Judge Gorenstein, have ordered stays of discovery in other recent Anti-Terrorism Act cases where potentially meritorious dispositive motions are pending as is the case here. *See O'Sullivan v. Deutsche Bank*, 2018 WL 1989585 (S.D.N.Y. Apr. 26, 2018) (Gorenstein, M.J.); *Averbach v. Cairo Amman Bank*, 19-cv-00004-GHW-KHP, 2020 WL 486860 at *3 (S.D.N.Y. Jan. 21, 2020) (Parker, M.J.); Trans. of Conference at 35, *Averbach v. Cairo Amman Bank*, 19-cv-00004-GHW-KHP, (S.D.N.Y. May 23, 2019), ECF No. 38. There is no reason for the Court to depart from this practice here. Accordingly, Plaintiffs' request for leave to serve subpoenas should be denied on this basis as well.

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While Defendants do not oppose Plaintiffs' alternative proposal for an order directing non-parties to preserve potentially relevant evidence, they recognize that the Court may wish to hear from the affected non-parties on this point.

Respectfully submitted,

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cc: All counsel of record (via ECF)